UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:23-cv-00114-FDW

EIJAH E. PACHECO,)	
Plaintiff,)	
vs.)	
FNU CALL, et al.,)	ORDER
Defendants.)	
)	

THIS MATTER is before the Court sua sponte.

The Plaintiff did not pay the filing fee, or file an application to proceed in forma pauperis. On July 19, 2023, the Clerk entered a Notice of Deficiency granting the Plaintiff 21 days within which to pay the filing fee file an application to proceed in forma pauperis. [Doc. 2]. The Plaintiff was cautioned that, "[f]ailure to do so may result in the dismissal of this action without prejudice for failure to prosecute." [Id. at 1]. The Plaintiff has failed to pay the filing fee or to file an application to proceed in forma pauperis, and the time to do so has expired.

The Plaintiff appears to have abandoned this action and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not

imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court is respectfully directed to close this case.

Signed: September 11,

Frank D. Whitney

United States District Judge